



### ***Multani v. Commission scolaire Marguerite-Bourgeoys* 2006 SCC 6 (CanLII)**

Gurbai Singh Multani immigrated to Canada from Pakistan in 2000. He attended a francophone school in LaSalle, Quebec. In November 2001, the school administration became aware that Multani had been carrying a metal ceremonial dagger that is part of his religious faith. It is known as a kirpan. He had dropped it in the schoolyard. At first, school authorities decided to prohibit Multani from attending school if he carried his kirpan. In December 2001, the school board proposed a compromise: he would be allowed to wear his kirpan as long as it was wrapped and sealed under his clothing, in order to protect school security.

In February 2002, Multani and his family agreed to the conditions. Then, the school board backed out. It refused to allow the agreement, stating that the school code of conduct prohibited carrying weapons and dangerous objects. The board informed Multani and his family that a symbolic kirpan in the form of a harmless pendant, for example, would be acceptable in place of the metal kirpan. Multani and his father argued that the ban went against the freedom of religion and freedom of equality guarantees under Quebec's human rights laws. It also went against the freedom of conscience and religion guaranteed in section 2(a) of the Charter.

In May 2002, the Quebec Superior Court ruled that Multani be allowed to wear the kirpan to school. However, it had to be wrapped in cloth and a wooden sheath and concealed under his clothes. School officials could conduct reasonable inspections to ensure conditions were being followed. Failure to follow these conditions would result in the loss of the right to wear the kirpan.

The case was appealed to the Quebec Court of Appeal. The court unanimously ruled that while freedom or right had been infringed, it was not possible to accommodate Mr. Multani reasonably without compromising the school boards' security rules. The Quebec Court of Appeal upheld the ban on kirpans in schools.

The Multani family appealed the case to the Supreme Court of Canada. In March 2006, the Supreme Court of Canada set out a two-part test for determining whether freedom of religion had been violated. The appellant (the person seeking a remedy in court) must establish the following:

1. that he or she sincerely believes in the practice or belief that has a connection with religion;
2. that his or her ability with practice or religious belief is being interfered with.

The court held that Multani sincerely believed that his faith required him to wear the kirpan at all times. For Orthodox Sikhs, the kirpan is a religious symbol; Multani genuinely believed that he would not be complying with the requirements of his religion if he wore a plastic or wooden kirpan. The judgment was unanimous. The court stated that the school board's policy on banning the kirpan clearly violated Multani's freedom of religion under section 2(a) of the Charter.

**Questions:**

1. What is the two-part test used by the Supreme Court of Canada to determine whether freedom of religion is violated?
2. Why did the Quebec Superior Court allow Multani to wear the kirpan?
3. What was the decision of the Quebec Court of Appeal? Why did they arrive at that decision?
4. The Supreme Court commented in its decision that allowing Multani to wear his kirpan under certain conditions demonstrates the importance that our society attaches to protecting freedom of religion and to showing respect for its minorities. Do you agree with this statement? Why or why not?